IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 172 of 2006

DEVENDRA

V/S

DILIP KUMAR

Mr. RK THANVI, for the appellant / petitioner

Date of Order : 1.8.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant on the application for early hearing.

For the reasons mentioned in the application, the same is allowed. At the request of the learned counsel, the appeal was heard today itself on merits.

By the impugned judgments the two learned courts below have decreed the plaintiff's suit for eviction which was filed after determination of tenancy by giving notice under Section 106 of the Transfer of Property Act, and also alleging that the suit shop is required by the plaintiff for his own business. Both the learned courts below have found that tenancy was monthly tenancy, and the tenancy was validly terminated by giving 15 days notice ending with the

month of tenancy i.e. on 30.11.2003. Admittedly looking to the location of the property where the premises is situated, provisions of Rajathan Premises (Control of Rent & Eviction) Act are not applicable.

Having perused the impugned judgments, and having heard the learned counsel, I do not find the impugned judgments to be suffering from any such error as may require interference in my second appellate jurisdiction. The appeal is, therefore, dismissed summarily.

However, at the request of the learned counsel for the appellant, the appellant is given one year's time to vacate the suit premises on the condition that the defendant gives an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above

conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA),J.

/Sushil/